

CHAPTER 2
PUBLIC RECORDS AND
FAIR INFORMATION PRACTICES
[Prior to 11/15/89, General Services[450] Ch 11]

The general services department hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in the first volume of the Iowa Administrative Code.

401—2.1(18,22) Definitions. As used in this chapter:

“Agency.” In lieu of the words “(official or body issuing these rules)”, insert “department of general services”.

401—2.3(18,22) Requests for access to records.

2.3(1) Location of record. In lieu of the words “(insert agency head)”, insert “records management division”. In lieu of the words “(insert agency name and address)”, insert “Records Management Division, Department of General Services, Hoover State Office Building, Level A, Des Moines, Iowa 50319”.

2.3(2) Office hours. In lieu of the words “(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)”, insert “8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays”.

2.3(7) Fees.

c. Supervisory fee. In lieu of the words “(specify time period)”, insert “one-half hour”.

d. Search fees. If the request requires research or if the record or records cannot reasonably be readily retrieved by the office, the requester will be advised of this fact. Reasonable search fees may be charged where appropriate. In addition, all costs for retrieval and copying of information stored in electronic storage systems may be charged to the requester.

401—2.6(18,22) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words “(designate office)”, insert “the records management division”.

401—2.9(18,22) Disclosures without the consent of the subject.

2.9(1) Open records are routinely disclosed without the consent of the subject.

2.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

- a.* For a routine use as defined in rule 2.10(18,22) or in any notice for a particular record system.
- b.* To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided that the record is transferred in a form that does not identify the subject.
- c.* To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of the government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.
- d.* To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

- e. To the legislative fiscal bureau under Iowa Code section 2.52.
- f. Disclosures in the course of employee disciplinary proceedings.
- g. In response to a court order or subpoena.

401—2.10(18,22) Routine use.

2.10(1) Defined. “Routine use” means the disclosure of a record without the consent of the subject or subjects for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

2.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

- a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer or employee, or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential records.
- b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.
- c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.
- d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.
- e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.
- f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

401—2.11(18,22) Consensual disclosure of confidential records.

2.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 11.7(18,22).

2.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official’s intervention on behalf of the subject in a matter that involves the agency may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

401—2.12(18,22) Release to subject.

2.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 2.6(18,22). However, the agency need not release the following records to the subject:

- a. The identity of a person providing information to the agency when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.
- b. Records which are the work product of an attorney or are otherwise privileged.
- c. Peace officers’ investigative reports except as required by the Iowa Code. (See Iowa Code section 22.7(5).)
- d. As otherwise authorized by law.

2.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

401—2.13(18,22) Availability of records.

2.13(1) General. Agency records are open for public inspection and copying unless otherwise provided by rule or law.

2.13(2) Confidential records. The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. The department of general services is a depository for the records of other public bodies. We maintain records on paper, audio tape, microform, and data processing systems. Although these records are in our physical possession, the responsibility for compliance with Iowa Code chapter 22 remains with the “lawful custodian.” The public body requesting creation or storage of the record by our department is the lawful custodian (see Iowa Code section 22.1—lawful custodian definition). All such records are confidentially maintained while in our possession. Requests for access to any such records must be directed to the lawful custodian. Any records maintained by our department concerning the content, location, or disposition of such records are confidential in order to maintain security for access to confidential records as per Iowa Code section 22.7.

b. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)

c. Tax records made available to the agency. (Iowa Code sections 422.20 and 422.72)

d. Records which are exempt from disclosure under Iowa Code section 22.7.

e. Minutes of closed meetings of a government body. (Iowa Code section 21.5(4))

f. Identifying details in final orders, decisions, and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1) “d.”

g. Those portions of agency staff manuals, instructions, or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances of criteria for the defense, prosecution, or settlement of cases, when disclosure of these statements would:

- (1) Enable law violators to avoid detection;
 - (2) Facilitate disregard of requirements imposed by law; or
 - (3) Give a clearly improper advantage to persons who are in an adverse position to the agency.
- (See Iowa Code sections 17A.2 and 17A.3)

h. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 602.10112, 622.10 and 622.11, Iowa R. Civ. P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law.

i. Reports to the department which, if released, would give advantage to competitors and serve no public purpose (Iowa Code section 22.7). Examples of records which could in the proper circumstances be determined to be within this category include but are not limited to:

- (1) Financial reports filed by vendors for departmental use in determining their eligibility to bid on projects advertised for letting.
- (2) Documents submitted by vendors for departmental use in certifying their eligibility as disadvantaged business enterprises or women’s business enterprises.

j. Vehicle accident reports submitted to the department by drivers and peace officers. (Iowa Code section 321.271)

(1) However, access shall be granted to those persons authorized by Iowa Code section 321.271.

(2) Pursuant to Iowa Code section 22.7, the lawful custodian may release the following information from peace officer’s accident reports even though the reports are confidential: date, time, and location of accident, names of parties to the accident, owners and descriptions of the motor vehicles involved, name of investigating officer, names of injured, locations where motor vehicles and injured were transported, and the identification and owners of damaged property other than motor vehicles.

k. Confidential assignments of state vehicles by the state vehicle dispatcher. Includes letters/memos detailing driver assignments and plate numbers for selected vehicles as per Iowa Code sections 18.115(7) and 321.19(1).

l. Computer resource security file for information services division. File contains names, identifiers, and passwords of users of computer resources. This file must be kept confidential to maintain security for access to confidential records as per Iowa Code section 22.7.

m. Records of accidents on state-owned property submitted by the public, peace officers, or state agencies. (Iowa Code sections 18.160 to 18.169 and chapter 25A)

n. Any other records made confidential by law.

2.13(3) Authority to release confidential records. The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect these records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 2.4(18,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested persons and withhold the records from inspection as provided in subrule 2.4(3).

401—2.14(18,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 2.1(18,22). Unless otherwise stated, the authority for this office to maintain the record is provided by Iowa Code chapter 18. The record systems maintained by the agency are:

2.14(1) Personnel files. The department and individual divisions maintain files containing information about employees and applicants for positions with the agency. The files contain payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationships. Some of this information may be confidential under Iowa Code sections 22.7(11) and 22.7(18). Personnel records are stored in both paper and computerized form.

2.14(2) Vendor files. The department maintains files of vendors eligible to do business with the state of Iowa. Files may contain applications, vendor information booklets, vendor codes, commodity codes, minority-owned vendor identification information, and mailing lists. Records are stored in both paper and computerized form.

2.14(3) Voter registration files. Information services division maintains a master file of registered voters in the state of Iowa. This file includes names, addresses, social security numbers, birth dates, political party affiliations, and other information necessary to conduct elections. This file also includes county records which contain names and mailing addresses of county auditors, support files, election results files which contain last names of candidates for office, and a log of list requesters and lists which include names, addresses, social security numbers, and telephone numbers of all persons who have ordered lists or reports from the registrar. This information is collected according to Iowa Code chapters 47 and 48. Records are stored on paper, computer, and microform.

2.14(4) Vehicle dispatcher files. Vehicle assignments and credit card issues may be accessed by personal identifier or by vehicle identification number. Other records which may contain personally identifiable information, but are not retrievable by it, are: mileage reports, auction information, automobile insurance premiums, pool car billings, departmental billing, motor fuel tax refund, and motor oil claims. Records are stored on paper, computer, and microform.

2.14(5) *Capitol complex parking files.* Administrative services division maintains records concerning parking assignments, decals, gate cards, after-hours building passes, parking tickets, departmental parking coordinators, and hearing and appeals. All records except hearings and appeals may be retrieved by personal identifier at times. Hearings and appeals are filed by date of hearing only. Records are stored on paper and computer. Hearings and appeals are also stored on audio tapes.

2.14(6) *Annual bid bonds.* The printing division maintains a file of annual bid bonds for vendors eligible to bid on printing contracts. The file is alphabetical by vendor name and contains only those papers necessary for execution of the bond. This record is stored on paper only.

2.14(7) *Telephone directory of state employees.* The communications division directs the publication of a telephone directory of state employees. The directory contains names, department names, business addresses and telephone numbers. The publication also includes private industry information and advertising containing business names, addresses and telephone numbers. This record is stored on both paper and computer.

The information services division provides an on-line telephone directory through its PROFS system on the mainframe computer. The file contains employee names, department names, and business telephone numbers. The record is stored on computer only.

401—2.15(18,22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 2.1(18,22). The records listed may contain information about individuals. These records are routinely available to the public. Unless otherwise designated, the authority for this office to maintain the record is provided by Iowa Code chapter 18. All records are stored on both paper and in automated data processing systems unless otherwise noted.

2.15(1) *Rule-making records.* Official documents executed during the promulgation of department rules and public comments. This information is collected pursuant to Iowa Code chapter 17A.

2.15(2) *Commission records.* Records contain agendas, minutes, and materials presented to the capitol planning commission, records commission, and voter registration commission. Commission records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. These records are also stored on audio tapes.

2.15(3) *Publications.* Publications include news releases, annual reports, project reports, division newsletters, etc., which describe various department programs.

2.15(4) *Published manuals.* The department uses many legal and technical publications in its work. The public may inspect these upon request. Some of these materials may be protected by copyright law.

2.15(5) *Mailing lists/contact lists.* Names, mailing addresses, and telephone numbers of state employees, commission members, officials in government of other states, members of the general public, etc. These lists may be used for distribution of informational material, such as newsletters, policy directives, or educational bulletins. They are also used to provide contacts for coordination of services or as reference information sources.

2.15(6) *Authorized user lists.* Information services division maintains a list of persons authorized to use their various on-line services.

2.15(7) *Publication sales files.* Printing division maintains records of persons purchasing legal publications. Records are used to produce mailing lists for renewal notification and publication mailings. Records are maintained by zip code. These are paper records except for mailing list production.

2.15(8) *FCC license files.* Communications division maintains records of agencies within the state with FCC licenses. Files include applications, licenses, notifications, correspondence, and renewals. Records are filed by expiration date. These are paper records only.

2.15(9) *Bid/purchasing process.* Specifications, proposals, bid documents, awards, contracts, agreements, leases, performance bonds, requisitions, purchase orders, printing orders, supply orders, correspondence, etc.

2.15(10) *Project files.* Plans, specifications, contracts, studies, drawings, photos, blueprints, requests for services, abstracts, lease/rental files, 28E agreements, space administration, facilities records, etc.

2.15(11) *Property/equipment files.* Inventory, assignments, distribution, maintenance, requests, operations, shipping/receiving reports, adjustments, etc.

2.15(12) *Education program records.* Library of training courses and reference materials, library of course documentation, TSO data sets, Iowa interagency training system, applied management series of IMTS program, IMTS class registrations of general services employees, Deltak/ASI course usage, file of course evaluations.

2.15(13) *Data processing files.* Operations logs, database user requests, job number maintenance/update, data entry format book, integrated data dictionary, computer output forms designations, system software, hardware/software configurations, problem determination/resolution records, incident reports, etc.

2.15(14) *Federal surplus property records.* Donee files including applications for eligibility and records of distribution, transfer orders of property from other federal agencies, auction files, etc. Auction records are filed by auction date only, but "award" forms may contain names of individuals purchasing property.

2.15(15) *Administrative records.*

- a. Reports: weekly, monthly, annual, biennial, statistical, analysis, activity, etc.
- b. Correspondence: public, interdepartmental, internal, etc.
- c. Policies and procedures.
- d. Organizational charts, table of authorized positions.
- e. Memberships: professional/technical organizations.
- f. Planning: 99 county communication plans, emergency operation plans, disaster recovery plans, etc.
- g. Budget and financial records.
- h. Accounting records: accounts receivable, accounts payable, receipts, invoices, claims, vouchers, departmental billings, etc.

2.15(16) *Legislative files.* Pending bills, enrolled bills, legislative proposals, copies of amendments, etc.

2.15(17) *Records management program.* Records manual, retrieval authorization lists, notice of intent to destroy, microfilming work orders, production logs and job cards, forms management files, including forms samples, descriptions, cost information, training materials, etc.

2.15(18) *Printing files.* Print requisition, plates, negatives, samples, typesetting, artwork, production logs, etc.

2.15(19) *All other records.* Records are open if not exempted from disclosure by law.

401—2.16(18,22) *Data processing systems.* Some of the data processing systems used by this department may permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

401—2.17(18,22) *Applicability.* This chapter does not:

1. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.
2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.

3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the regulations of another agency.

4. Apply to grantees, including local governments or subdivision thereof, administering state-funded programs unless otherwise provided by law or agreement.

5. Make available records compiled in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, the Code of Professional Responsibility, and applicable regulations.

These rules are intended to implement Iowa Code section 22.11.

[Filed emergency 8/19/88 after Notice 7/13/88—published 9/7/88, effective 8/19/88]

[Filed 10/25/89, Notice 8/23/89—published 11/15/89, effective 12/20/89]